

REMARKS

Applicant has carefully reviewed the Application in light of the Office Action mailed November 15, 2006. At the time of the Final Office Action, Claims 1-8, 10-18, 20-29 and 31-37 were pending in the Application. Applicant amends Claims 1, 12, 23, 34 and 35 cancels Claims 3, 11, 14, 22, 25, 31, 33, 36 and 37 without prejudice or disclaimer. The amendments and cancellations to these claims are not the result of any prior art reference and, thus, do not narrow the scope of any of the claims. Furthermore, the amendments are not related to patentability issues and only further clarify subject matter already present. All of Applicant's amendments have only been done in order to advance prosecution in this case. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Section 102 Rejection

The Examiner rejects Claims 1-8, 10-18, 20-29 and 31-37 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,658,095 issued to Yoakum et al. (hereinafter "*Yoakum*"). This rejection is respectfully traversed for the following reasons.

Applicant respectfully reminds the Examiner that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.<sup>1</sup> In addition, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claims" and "[t]he elements must be arranged as required by the claim."<sup>2</sup> In regard to inherency of a reference, "[t]he fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic."<sup>3</sup> Thus, in relying upon the theory of inherency, an Examiner must provide a basis in fact and/or technical reasoning to support the determination

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<sup>1</sup> *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131.

<sup>2</sup> *Richardson v. Suzuki Motor Co.*, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 USPQ 2d 1566 (Fed. Cir. 1990); MPEP §2131 (*emphasis added*).

<sup>3</sup> MPEP §2112 (citing *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ 2d 1955, 1957 (Fed. Cir. 1993) (*emphasis in original*)).

that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.<sup>4</sup>

There are a multitude of reasons why the pending claims are allowable over the proposed reference. One significant difference is that *Yoakum* fails to offer any system capable of generating a graphical user interface (GUI) for managing the one or more discovered network devices. The passage cited by the Examiner is so irrelevant to this element that Applicant presumes that such a citation is simply a clerical error.

Also, Applicant has further detailed the trust domain (previously of Dependent Claim 3) such that the Examiner can clearly see how it operates and, just as importantly, how *Yoakum* fails to offer any such mechanism. There are still more reasons why the pending claims are allowable over *Yoakum*. For example, lacking from *Yoakum* is any disclosure relating to the ability to actually control end point devices. As recited, Independent Claim 1 recites, “an authorized user at an endpoint is able, using IM, to instruct one or more discovered network devices to perform one or more particular tasks.”

For this teaching, the Examiner has relied on Columns 11 and 12 of *Yoakum*. No such teaching is offered in these passages, as Applicant has reviewed the cited disclosure several times. The aforementioned functionality, which is lacking in *Yoakum*, allows control of presence end points via the sent control commands. Because *Yoakum* is incapable of such operations, *Yoakum* is not a barrier to patentability for Independent Claim 1 in this regard. Accordingly, Independent Claim 1 is allowable over this reference for at least this reason.

Independent Claims 1, 12, 23, and 34-37 recite similar limitations and, therefore, are also allowable using analogous reasoning. Additionally, the corresponding dependent claims are also allowable over the cited reference using a similar rationale. Written notice to this effect is respectfully requested.

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<sup>4</sup> MPEP §2112 (citing *Ex Parte Levy*, 17 USPQ 2d 1461, 1464 (Bd. Pat. at App. and Inter. 1990) (*emphasis in original*)).

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CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

Please charge Deposit Account No. 02-0384 of BAKER BOTTS L.L.P. an amount of \$790.00 to satisfy the request for continued examination fee of 37 C.F.R. §1.17(e).

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact Thomas J. Frame at 214-953-6675.

Respectfully submitted,  
BAKER BOTTS L.L.P.  
Attorneys for Applicant

A handwritten signature in black ink, appearing to read "Thomas J. Frame", is written over a horizontal line.

Thomas J. Frame  
Reg. No. 47,232

Date: January 16, 2007

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